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Held at Headquarters, New York, on Thursday, 15 March 2012, at 3 p.m.

Chairperson: Ms. Majodina

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Initial report of Turkmenistan (CCPR/C/TKM/1)

1. *At the invitation of the Chair, the members of the delegation of Turkmenistan took places at the Committee table.*

2. **Ms. Gurbannazarova** (Turkmenistan), introducing the initial report of Turkmenistan, said that the policies of her country relied on an incremental approach that did not reject the past but rather built upon it, while avoiding a chaotic process of modernization. Its highest guiding values included democracy, the rule of law, humanism and justice, as it moved through a transitional period from political and economic development to social progress.

3. Two presidential commissions had been established to reform national legislation and the Constitution by bringing them more closely into line with international norms and laying the foundations for political, social and economic change. The death penalty has thus been abolished and considerable progress had been achieved in protecting human rights and freedoms. National legislation guaranteed all citizens due process and outlawed all forms of torture, cruel and unusual punishment or degrading treatment. Citizens had the right to petition for redress of moral or material loss inflicted by government agencies or officials, and could not be forced to make self-incriminating statements. Evidence obtained through the use of torture or mistreatment was not admissible in court. Furthermore, a series of laws had been adopted guaranteeing the protection of human rights by ensuring the independence of the judiciary, as well as the equality of the prosecution and defence counsels in an adversarial system, and non-citizens were provided with the same protections and safeguards as citizens.

4. In accordance with the recommendations of the United Nations Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women, article 19 of the Constitution on the equality of rights had been expanded to prohibit discrimination on the basis of race or gender. Having ratified all relevant international human rights instruments, Turkmenistan was continuing to reform its national system for the protection of human rights and to fulfil its international human rights obligations. To that end, international human rights experience had been studied, and in 2011 and 2012 a series of laws had been passed on the protection of the family. In particular, the law on marriage recognized only officially registered marriages as valid, thereby preventing underage marriages. By law, women were guaranteed the same legal protections as men.

5. An important development in the reform of the country's legal system was the new Criminal Code, adopted in 2011, which codified the observance of rights in the prison system and established the primacy of the rule of law, humanitarian conduct, democracy, individualized sanctions and the humane treatment of prisoners. Underage prisoners would be treated accordingly and with a view to their rehabilitation and reintegration into society. Prisoners were entitled to receive information regarding their legal rights, to be treated humanely, to file complaints of mistreatment with the appropriate authorities, to have contact with the outside world, and to receive pensions, disability payments and child support. Prisoners who were foreign nationals had the right to contact their national embassies and consulates or, in the case of stateless persons, the diplomatic representatives charged with protecting their interests.

6. In accordance with article 10 of the Criminal Code, prisoners enjoyed freedom of religion and could attend religious establishments or have religious representatives visit them. In certain instances, foreign nationals could be repatriated to complete their sentences in their home countries, in accordance with international agreements to which Turkmenistan was a party. Women prisoners who were pregnant or had children could be housed separately, and childbirth could take place in a hospital setting. Children born to convicted prisoners would not have that fact officially registered. Underage prisoners would complete their sentences in educational colonies, where they were guaranteed proper care, protection and individualized social, psychological and medical attention, as well as educational and vocational training. If their families could not afford to visit them, they would receive financial assistance from the Government to enable them to remain in contact. All educational colonies had to have facilities for daily exercise in an outdoor setting.

7. The Government was cooperating with international organizations to ensure that the rights set

out in international instruments were protected in domestic law. The United Nations Children's Fund had helped Turkmenistan to develop a blueprint for protecting the rights of juveniles that was in keeping with international standards. The International Committee of the Red Cross was also helping to develop the country's humanitarian law. The Inter-agency Commission for the Fulfilment of Turkmenistan's International Human Rights Obligations had been set up as a standing advisory body to coordinate the efforts of ministries, State committees, departments, local authorities, enterprises, institutions and organizations in that regard. A programme involving Turkey, the European Union and the United Nations Development Programme had also been established to foster a constructive dialogue on the protection of human rights.

8. **Mr. Thelin** said that Turkmenistan was to be commended for submitting its initial report (CCPR/C/TKM/1), albeit 14 years late. Both the report and the delegation's oral presentation were in stark contrast to assessments made by external entities, such as Human Rights Watch, to the effect that Turkmenistan was marked by extraordinary levels of repression, State control over public life, denial of the right of expression, forcible detention of dissidents and little or no freedom of the press. However, some progress had been made in encouraging the courts to invoke the Covenant, in particular by virtue of article 6 of the Constitution, which stated that, where an international agreement concluded by Turkmenistan provided otherwise than domestic law, the provisions of the international agreement were adopted. Yet, according to the written replies (CCPR/C/TKM/Q/1/Add.1, para. 15), there were no specific instances of communications by individuals claiming a violation of the rights contained in the Covenant or the direct application by courts of its provisions. Was that due to a lack of awareness among lawyers and other legal professionals or for some other reason?

9. With regard to implementation of the Committee's Views under the Optional Protocol, the written replies made no mention of the communications received by the Committee, including three in which it had found human rights violations and issued recommendations. He wished to know what had resulted from those communications and whether the delegation could confirm or deny reports that attorneys could be subject to reprisals for assisting people who had filed human rights complaints.

10. The Committee would also like to know what concrete steps had been taken to strengthen the independence of the National Institute for Democracy and Human Rights, in line with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights adopted by General Assembly resolution 48/134 (Paris Principles). Despite indications that human rights documents were available in the Institute's library, the Committee against Torture had noted that its concluding observations were unavailable in the Institute. It would be useful if the delegation could confirm or deny the reports that people were obliged to register and provide pieces of identification before entering the library and that they were under constant surveillance while in the library.

11. With regard to juvenile justice, paragraph 351 of the State party's report indicated that, in the case of minors, the repression measure might be placement under the care of the parents, the foster parents, the guardian or, for minors brought up in a closed child welfare institution, the administration of that establishment. He asked about the percentage of juvenile detainees who fell into that category. The State party had also indicated (written replies, para. 171) that the procurator must, within 48 hours of being so informed, authorize the detainee's remand in custody or his or her release. However, that did not satisfy the habeas corpus provision of article 9, paragraph 3, of the Covenant, which required people arrested or detained on a criminal charge to be brought promptly before a judge, since a procurator was clearly not a judge.

12. He sought clarification about the average length of time that juveniles who were not in the custody of juvenile institutions or their parents spent in detention before being brought to trial, and about minors' right to legal assistance. It would be helpful to have an indication of when concrete results might be expected of the State party's work, mentioned in paragraph 178 of its written replies, on a draft outline to improve the juvenile justice system in Turkmenistan, aimed at bringing it into line with international standards.

13. **Mr. Neuman** said that, while the State party had indicated in its written replies that it had taken various measures to combat terrorism, it would have been more useful to know how it ensured that those measures did

not violate human rights in general and the Covenant's non-derogable rights in particular; that surveillance for the purpose of combating terrorism did not violate the right to privacy; and that terrorism was defined in such a way that it did not interfere with the legitimate expression of peaceful ideas on politics and religion.

14. Considering that prohibition against torture was absolute and non-derogable under the Covenant, even in the context of cooperation between States in combating terrorism, he wished to know how Turkmenistan ensured that individuals were not extradited to States where they faced the risk of torture or cruel, inhuman or degrading treatment or punishment. Article 39 of the Constitution — which provided immunity from prosecution for torture and other crimes when committed for the purpose of protecting the national interest — was clearly inconsistent with both the Covenant and the Convention against Torture. He asked whether decisions on extradition and detention for purposes of extradition were subject to independent judicial review; whether the country had an independent body charged with the inspection of prisons; and, if not, whether it planned to establish such a body or to grant access to the International Committee of the Red Cross for that purpose.

15. The written replies indicated that courts or law enforcement bodies had not received any statements concerning the use of torture against prisoners or cruel treatment of detainees during arrest and pretrial detention. However, numerous independent reports had noted that people were indeed tortured, but that they were simply too afraid to file complaints. He wondered whether those reports were not sufficient reason for the State party to conduct an investigation on its own initiative, even in the absence of official complaints. Invoking in turn the habeas corpus protection of article 9, paragraph 3, of the Covenant, he asked whether adult offenders benefited from it and whether there were any remedies against unlawful detention, as provided for in its article 9, paragraph 4. He also wished to know whether there was any truth to the allegation that when political opponents were arrested their innocent family members were also detained.

16. In its written reply to the question concerning measures taken to combat domestic violence, the State party indicated that, as no allegations of violence in the family had been reported to the courts or law enforcement bodies, there was no need to adopt special legislation and programmes for the protection and shelter of victims of violence. Yet, both the Committee on the Elimination of Discrimination against Women and the Committee on Economic, Social and Cultural Rights, had considered domestic violence to be an issue that needed to be addressed by the State party, in particular by information-gathering and awareness-raising. The Committee would like to know whether appropriate measures would be taken in that regard.

17. **Ms. Waterval** said that it was not clear whether homosexual conduct between consenting men had been decriminalized in Turkmenistan, as the only two definitions of discrimination found in its laws, namely in article 5 of the State Guarantees of Women's Equality Act of 2007 and in article 146 of the Social Security Code, were silent on the issue. She would appreciate more information about the effectiveness of measures and programmes put in place to ensure access to higher education and the civil service, and about the real status of women and minorities.

18. According to information before the Committee, a number of individuals who had been convicted in December 2002 and January 2003 for their alleged involvement in the assassination attempt on the President in November 2002 continued to be held incommunicado. She reiterated the Committee's request for information on any measures taken by the State party to ensure that those people had access to lawyers and members of their family and that their whereabouts were known.

19. **Mr. Flinterman** said that, in the light of the State party's initial report (para. 153), the Labour Code of Turkmenistan appeared to be overly protective of women, particularly pregnant women and mothers, and thus to perpetuate the gender stereotype of women as the sole providers of childcare. Similar concerns had been raised by the Committee on the Elimination of Discrimination against Women at its thirty-fifth session in 2006. He reiterated the question raised in the list of issues (para. 7) whether the State party intended to revise the Labour Code and take effective measures to promote more equally shared domestic and family duties between women and men. The Committee would also welcome concrete examples of the measures referred to in paragraphs 65 and 66 of the written replies and an indication of their impact on the position of women in the labour market and in society in general.

20. He was pleased to note that the State party adhered to the principle of judicial independence, crucial for the rule of law and the protection of human rights and fundamental freedoms in any country; however serious questions had been raised on that score about Turkmenistan in the framework of the universal periodic review in 2009. One of the recommendations of that review had been the establishment of a constitutional court and ombudsman. He shared the concerns raised by the Committee against Torture at its forty-sixth session in 2011 (CAT/C/TKM/CO/1, para. 10); they had been substantiated by other reliable sources. He asked what measures had been taken to address those concerns and to eliminate corruption within the judiciary. He regretted that no answer had been provided in the written replies to that question in the list of issues.

21. The Committee welcomed the fact that all persons residing in Turkmenistan were equal before the court and were entitled to due process and a public hearing, in accordance with article 14 of the Covenant. However, the Committee took into account not only national legislation, but also the reality on the ground, which appeared to be quite different. It had received disturbing reports from various sources of violations of the right to a fair trial, as in the cases of Mr. Amanklychev and Mr. Khadzhiev. He asked the delegation to indicate what measures had been taken or were envisaged to ensure that Turkmenistan complied fully with its obligations under article 14 of the Covenant.

22. **Mr. Bouzid**, noting that, according to the State party's initial report (para. 172), the State of Emergency Act referred to defunct Soviet-era law enforcement organs, said that as the State party was now independent it should reform that Act. He asked whether a bill to that effect had been submitted to parliament. If so, could the delegation provide details and confirm that the projected reform was in accordance with article 4 of the Covenant? It would also be useful to know whether the State party intended to review the legislation governing the actions of the police and civil defence forces in a state of emergency. Since, under article 53 of the Constitution, the decision to declare a state of emergency rested with the President of Turkmenistan, what exactly was the role of the parliament in that regard?

23. He thanked the delegation for the detailed answer provided in the written replies on actions taken to combat HIV/AIDS in the State party and noted that the Government had initiated a national immunization programme that would run through to 2020. He asked the delegation to comment on reports that children living in remote areas had limited access to immunizations due to the closure of local health centres.

The meeting was suspended at 4.45 p.m. and resumed at 5.15 p.m.

24. **Ms. Gurbannazarova** (Turkmenistan), in reply to the questions posed by Mr. Thelin, said that the National Institute for Democracy and Human Rights, attached to the Office of the President of Turkmenistan, operated on many different levels and in many different areas. Its work included monitoring the activities of the legislature and ensuring that laws were in compliance with international standards; studying regional issues related to human rights and the development of a democratic society; and carrying out applied research on human rights and the development of democracy, the results of which were used by the national legislature. One department of the Institute worked with citizens and dealt with complaints from the public, which were registered and then referred to the appropriate authorities. Compliance with the Paris Principles was not formally part of the mandate of the Institute, which, however, studied international practices and worked closely with international bodies, such as the Danish Institute for Human Rights. It also organized events to discuss pertinent issues and worked to publicize its efforts and the Paris Principles around the country and internationally. No formal decision had been reached concerning the independence of the Institute, but the Inter-agency Commission was studying the matter to ensure that her country complied with international standards. There was no fixed date for the appointment of an ombudsman or for specific measures to follow up on the Paris Principles, but her Government was working towards that end and hoped to take action in the near future.

25. The National Institute for Democracy and Human Rights housed a library and a resource centre, which were often confused with each other. The resource centre had opened in May 2011 and was the result of a joint project by the European Union, the United Nations Development Programme and the Office of the High Commissioner for Human Rights; the library had opened in 2006. The resource centre was open to

students, researchers and a broad range of the general population upon presentation of means of identification. Two members of staff, including a technical specialist, were on hand to locate documents, which were available for unmonitored consultation. The resource centre also provided access to an electronic library ar l the Internet.

26. While international agreements were given priority under article 6 of the Constitution, no statistics were available on cases where the Covenant had been applied directly. However, the Government was endeavouring to raise awareness of the Covenant among judges and lawyers by holding information sessions with international experts. There were plans for numerous round tables and seminars to be held on the subject in 2012 in conjunction with various international organizations.

27. **Mr. Hadjiyev** (Turkmenistan) said that the information the Committee had received from external sources regarding his Government's activities in the area of human rights was contradicted by the activities themselves. The international community should not rely on any single source of information about the country. It was not because Turkmenistan was closed that there was a dearth of reliable data concerning it. His Government was making considerable efforts to provide more information to international and regional organizations, and he hoped that the issue would be resolved before Turkmenistan next appeared before the Committee.

28. With regard to the Paris Principles, he pointed out that the reforms being carried out must be realistic and gradual. His Government was working to eradicate stereotypes and raise awareness of the need to abide by international standards — a process that would surely take time — while creating the conditions for human rights mechanisms to operate effectively in the public life of the country. Turkmenistan's ongoing cooperation with the International Committee of the Red Cross was but part of a positive trend.

29. He disputed the Committee's contention that his Government was not taking action on the three communications concerning human rights violations allegedly committed by his country. The communication submitted by Mr. Omar Faruk Bozbey contained a number of inaccurate claims, as his right to a fair and public trial and to the services of an interpreter had indeed been respected, in line with national legislation and article 2 of the Covenant. The procedural actions taken regarding Mr. Bozbey during his trial had also been in strict compliance with the Turkmen Criminal Code; he had been provided with a lawyer, and he had never been forced to give testimony against himself. During his imprisonment, he had never been subjected to discrimination on the basis of religion or any other belief, and his cell had met all sanitary requirements; he had contacted the prison management regarding health care, but he had preferred to receive treatment in the prison infirmary, instead of being taken to the central hospital; while in custody he had also been allowed private meetings with his wife and other relatives. The claims of harsh treatment of Mr. Bozbey by prison staff and of subjection to torture had thus been found to be false.

30. **Mr. Thelin**, speaking on a point of order, said that he had brought up the issue of the Committee's Views not in order to reopen the case, but to enquire whether the State Party had a mechanism in place to implement those Views fully; the representative had answered in the negative. By acceding to the First Optional Protocol to the Covenant, Turkmenistan had undertaken to recognize the competence of the Committee to decide on human rights violations.

31. **Mr. Hadjiyev** (Turkmenistan) said that he had spelled out the situation in order to show that his Government had not ignored the complaints but sought to address them by various means. The Ministry of Foreign Affairs and other Government ministries were actively working on the cases, in cooperation with international legal bodies.

32. With regard to the foreign media, 32 journalists from such well-known agencies as Associated Press, Agence France-Presse and Reuters had offices in the capital, along with media outlets from a number of other countries. The Ministry of Foreign Affairs assisted all foreign correspondents, invited them to the country to cover presidential elections, and held a weekly press conference at which views on current events in Turkmenistan were exchanged. In the second half of 2011, 50 foreign journalists had visited Turkmenistan to report on events in the country. Lastly, his Government was working with the BBC World Service Trust on a media development project.

33. A majority of Turkmenistan's 128 religious organizations were Islamic, and the Baha'i and Krishna faiths and a variety of Christian denominations were

represented as well. The Catholic Church had been registered in 2010, but a number of religious organizations remained unregistered. None of them, however, registered or not, was persecuted on account of religious activities or gatherings; the Department for Religion actively worked with unregistered organizations. If Committee members were interested, he could provide additional information on specific incidents regarding which concern had been expressed, involving members of certain organizations, such as the Jehovah's Witnesses.

34. **Ms. Gurbannazarova** (Turkmenistan) requested specific data on websites alleged to have been blocked in Turkmenistan; her Government did not restrict access to specific information on the Internet except to protect youth from pornographic content. Likewise, with regard to the reported persecution and arrest of human rights activists and reprisals against the lawyers who had given them legal assistance, her Government would appreciate details on specific cases in order to be able to respond to the Committee's query on the issue.

The meeting rose at 1 p.m.